

DEC -7 2007

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

2007 DEC -7 A 10: 37

MUR 5938

CASE CLOSURE UNDER THE

THE INDIANAPOLIS RECORDER

ENFORCEMENT PRIORITY SYSTEM

CONCERNED CLERGY, INC.

CONFIDENTIAL

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated

matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to

dismiss these cases.

The Office of General Counsel scored MUR 5938 as a low-rated matter. In this case,

the complainant, Pierre Q. Pullins, alleged that an entity known as the Concerned Clergy

sponsored an advertisement, which among other candidates featured a federal candidate, but

failed to include the appropriate disclaimer required under the Federal Election Campaign

Act ("Act"). Specifically, the advertisement ran in a local ethnic newspaper, the Indianapolis

Recorder, just prior to the 2006 Indiana primary election. The advertisement noted support

for several local Marion County, Indiana candidates. Additionally, the advertisement also

listed Congresswoman Julia Carson and requested support for her candidacy. The

complainant alleges that the advertisement was coordinated with the Marion County

Democratic Party and paid for by State Representative Carolene Mays.

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1 The Concerned Clergy, Inc., (aka "Concerned Clergy") responded to the complaint
2 and noted that it is a grass roots organization that urges voter participation, education, and
3 registration. In response to the disclaimer allegation the Concerned Clergy pointed to the
4 fact that the advertisement at issue contained a header, which identified the entity and listed
5 its address and telephone number. Thus, the Concerned Clergy recognized that although the
6 reader of the advertisement would have known who placed the advertisement, he or she may
7 not have necessarily been able to determine who paid for the space. The Concerned Clergy
8 acknowledged that it was solely responsible for the content and payment of the
9 advertisement. The Concerned Clergy admits to unintentionally violating the Act and states
10 it will not violate the Act in the future.

11 In light of the de minimis nature of the alleged violations, and in furtherance of the
12 Commission's priorities and resources, relative to other matters pending on the Enforcement
13 docket, the Office of General Counsel believes that the Commission should exercise its
14 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

15 **RECOMMENDATION**

16 The Office of General Counsel recommends that the Commission dismiss
17 MUR 5938, close the file effective two weeks from the date of the Commission vote, and
18 approve the appropriate letters. Closing the case as of this date will allow CELA and
19 General Law and Advice the necessary time to prepare the closing letters and the case file for
20 the public record.

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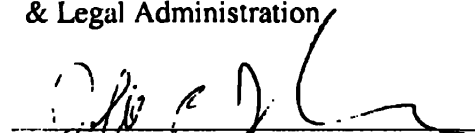
Thomaseenia P. Duncan
General Counsel

12/10/07
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachments:

1. Narrative in MUR 5938
2. Response from Concerned Clergy, Inc.,
dated November 30, 2007.

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4 **MUR 5938**

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6 **Complainant:** Pierre Q. Pullins,

7
8 **Respondents:** Concerned Clergy, Inc.
9 Julia Carson for Congress Committee, and
10 John F. White, as Treasurer
11 Julia Carson
12 The Indianapolis Recorder
13 Carolene Mays
14

15 **Allegations:** The complainant, Pierre Q. Pullins, alleged that an entity known as the
16 Concerned Clergy sponsored an advertisement in a local paper, which among other
17 candidates featured a federal candidate, but failed to include the appropriate disclaimer
18 required under the Federal Election Campaign Act ("Act"). Specifically, the
19 advertisement ran in the Indianapolis Recorder newspaper just prior to the 2006 Indiana
20 primary election. The advertisement noted support for several local Marion County,
21 Indiana candidates. Additionally, the advertisement also listed Congresswoman Julia
22 Carson and requested support for her candidacy. The complainant alleges that the
23 advertisement was coordinated with the Marion County Democratic Party and paid for by
24 State Representative Carolene Mays.
25

26 **Response:** The Concerned Clergy, Inc., (aka "Concerned Clergy") responded to the
27 complaint and noted that it is a grass roots organization that urges voter participation,
28 education, and registration. In response to the disclaimer allegation the Concerned
29 Clergy pointed to the fact that the advertisement at issue contained a header, which
30 identified the entity and listed its address and telephone number. Thus, the Concerned
31 Clergy recognized that although the reader of the advertisement would have known who
32 placed the advertisement, he or she may not have necessarily been able to determine who
33 paid for the space. The Concerned Clergy acknowledged that it was solely responsible
34 for the content and payment of the advertisement. The Concerned Clergy admits to
35 unintentionally violating the Act and states it will not violate the Act in the future.
36

37 The Indianapolis Recorder and Representative Carolene Mays responded to the
38 complaint by denying that either the paper discounted the advertisement space or that
39 Representative Mays paid for the advertisement.
40

41 The Julia Carson for Congress Committee responded by denying it had any
42 involvement in the advertisement.
43

44 **General Counsel's Note:** The complainant's allegations concerning the source of the
45 payment for the advertisement and potential coordination in developing the advertisement
46 appear to be speculative. There was no evidence submitted that suggests that the

1 advertisement was coordinated or paid for by anyone other than the Concerned Clergy
2 and the Concerned Clergy has taken responsibility for both the content and payment of
3 the advertisement.
4

5 **Date complaint filed:** September 4, 2007

6 **Supplement filed:** October 15, 2007
7

8 **Response filed:** October 4, 2007; October 24, 2007; and November 30, 2007.

9 [This Office spent several weeks contacting various representatives of the Concerned
10 Clergy before finally soliciting a response from one of its representatives.]

CHOATE & HAITH

ASSOCIATES IN THE PRACTICE OF LAW, NOT PARTNERS
151 NORTH DELAWARE STREET, SUITE 740
INDIANAPOLIS, INDIANA 46204

BELLE T. CHOATE
AARON E. HAITH

TELEPHONE 317 634-3113
FACSIMILE 317 634-2880

November 30, 2007

Jeff S. Jordan, Supervision Attorney
Complaints Examination & Legal Adm.
Federal Election Commission
Washington, D.C. 20463

RE: MUR 5938

Dear Mr. Jordan:

The Concerned Clergy Foundation, Inc. and I want to thank you for the opportunity to respond to the complaint from Pierre Q. Pullins alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

First let us establish that the Concerned Clergy Foundation, Inc. a separate and distinct entity from "Concerned Clergy, Inc." The Concerned Clergy Foundation, Inc. is a 501(c)(3) corporation which does not engage in any form of political activity. The ad giving rise to the complaint was neither urged by or supported by or known to The Concerned Clergy Foundation, Inc. The Concerned Clergy Foundation, Inc.'s board and officers are separate and distinct from those of that of the "Concerned Clergy, Inc." We ask that the Concerned Clergy Foundation, Inc. be removed from this investigation.

The "Concerned Clergy, Inc.", a subsidiary of the Concerned Clergymen, Incorporated, is as is the Concerned Clergymen, Incorporated, a not for profit formed and existing (subject to reinstatement) pursuant to Indiana statutes. The "Concerned Clergy, Inc." is a grass roots organization that does urge voter participation, education and voter registration. The "Concerned Clergy, Inc.", its address and telephone number are disclosed at the beginning of the ad, and advises all people by whom the ad is/was placed. The ad does not address the issue of whether or not the candidates urged thereby approved or even knew of the ad's development or placement with the Indianapolis Recorder Newspaper. No candidate endorsed therein contributed to the cost of the ad and the money for the ad was raised by passing the hat at a meeting of members of the "Concerned Clergy, Inc." had just before the ad ran. Any error made was un-intended and certainly not meant to harm Mr. Pullins or to knowingly violate any provision of the laws regulating federal elections. The error will not be repeated by the "Concerned Clergy, Inc." and we ask for your consideration and that you not assess a fine for this error.

You may consider each statement made to have been made on the personal knowledge and

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 COUNSEL

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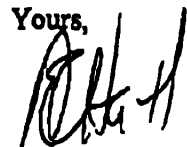
Jeff S. Jordan, Supervision Attorney
Complaints Examination & Legal Adm.
RE: MUR 5938

belief of the undersigned. I am counsel to and a member of the Board of "The Concerned Clergy Foundation, Inc." and in that capacity would not approve or accept any political activity by or on the behalf of the Foundation.

I, the undersigned, am a lay member of the "Concerned Clergy, Inc." and act as a legal advisor when asked. I am aware of and participate in the political activities undertaken by the "Concerned Clergy, Inc." and its members.

Thank you for your consideration of this response and the opportunity to make a response. I can be reached for questions at the number provided or by facsimile no. 317-634-3113.

Yours,



Aaron E. Haith

cc: Board, The Concerned Clergy Foundation, Inc.
President, Concerned Clergy, Inc.

Also via facsimile no.: 202-219-3923 / ATTN: Jeff Jordan

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Volunteer
FAX (202) 219-3923

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COUNSEL
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MUR # 5938

NAME OF COUNSEL: Aaron Keith

FIRM: _____

ADDRESS: 151 N. Delaware St 740

Indianapolis IN 46204

TELEPHONE- OFFICE (317) 634-3113

FAX (317) 634-2880

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

11/19/07 Margaret A. Oakley Secretary
Date Respondent/Client Signature Title

RESPONDENT/CLIENT Margaret A. Oakley
(Please Print)

MAILING ADDRESS: P.O. Box 18215

Indianapolis IN 46218

TELEPHONE- HOME _____

BUSINESS (317) 542-9244

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Information is being sought as part of an investigation being conducted by the Federal Election
Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(1)(A) apply. This section
prohibits making public any investigation conducted by the Federal Election Commission without
the express written consent of the person under investigation

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